

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In the Matter of:)	
)	
Application of)	
ALEE CELLULAR COMMUNICATIONS)	WT Docket No. 02-28
)	

**WRITTEN DIRECT TESTIMONY
 OF
 TERRY H. JONES**

1 **Q. Please state your name and current address.**

2 A. Terry H. Jones, Beltway Commons, 132 Airport Road, Hazleton, PA 18202

3 **Q. Please provide a brief outline of your personal, educational and professional**
 4 **background.**

5 A. I was born March 2, 1950 in Hazleton, PA. I received a Bachelor of Arts Degree
 6 from Rutgers University in 1972 and an MBA from New York University –
 7 Graduate School of Business in 1973. I was licensed as a Certified Public
 8 Accountant in the Commonwealth of Pennsylvania in 1975 and a Certified
 9 Management Accountant in 1982. I have worked as an accountant/financial
 10 advisor from 1973 to the present. In addition to my accounting activities, I served
 11 on the faculty of Bloomsburg University, College of Business from 1976-1988. I
 12 am a partner in Jones Kohanski & Co., LLP, a full service accounting and
 13 consulting firm, serving northeastern and central Pennsylvania. I am also a
 14 partner in Northeast Cellular Associates, a partner in Alee Cellular

Federal Communications Commission

Docket No. 76-98 Exhibit No. Attachment

Presented by THH

Disposition { Identified ✓
Received ✓
Rejected ✓

Reporter THH

Date 10/22/62

1 Communications. I am the Northeast Cellular representative in the Alee
2 partnership.

3 **Q. When and under what circumstances did you become a partner in Alee**
4 **Cellular Communications?**

5 A. In 1988, Alee was formed by TCC to enter all 428 markets in the RSA lottery. I
6 was the managing partner of a newly formed partnership, Northeast Cellular
7 Associates, which became a partner of Alee Cellular Communications in 1988.

8 **Q. What are your current responsibilities with Alee?**

9 A. Member of Executive Committee from 12/19/88 – Present. Chairman from
10 12/19/88 – 1/14/90. Acting Treasurer from 1/14/90 – Present. I am responsible
11 for the financial aspects of the partnership. I deposit funds, pay bills, and prepare
12 bank reconciliations, financial statements and tax returns. I have been active in
13 the buildout and operation of the New Mexico 3 system.

14 **Q. Please identify the current Alee partners and their respective partnership**
15 **interests.**

16 A. The current Alee partners and their current and initial partnership interests are as
17 follows:

18		Current	Initial
19	<u>Partner</u>	<u>Ownership Interest</u>	<u>Ownership Interest</u>
20	Bernstein, Robert A.	20.5190%	22.000%
21	Bunis, Joel	0.9920%	4.000%
22	Cellular Dreams	6.4540%	4.000%
23	Clark, Becky Jo	15.5200%	14.770%
24	Di Costanzo, Vincent	4.2030%	4.000%
25	Grumer, Diana	1.6180%	1.540%
26	Kelner, Nancy	4.2030%	4.000%

1	Malanga, George G.	7.8690%	8.000%
2	McInerney, Jay B.	4.1060%	4.000%
3	Mulvaney,	3.5060%	4.000%
4	Marie-Nadine		
5	Northeast Cellular	10.2150%	10.150%
6	Associates		
7	Resnick, Wendi	0.9920%	*
8	Riahi, Behnan	1.4010%	4.000% **
9	Riahi, Bobak	1.4010%	
10	Riahi Marlene	1.4020%	
11	Rodgers, Edward	9.2710%	9.540%
12	Spence, Dennis R.	<u>6.3280%</u>	<u>6.000%</u>
13		100.0000%	100.000%
14	* Not an initial partner. ** The initial 4% interest was held by Amir Riahi.		

15 **Q. What changes have there been in the partners since formation of the**
16 **partnership in 1988?**

17 A. Amir Riahi replaced Shari Sharafin in September 1988. Mr. Riahi died in late
18 1999 or early 2000 and his 4.2040% interest is now held by his widow Marlene
19 Riahi and their minor children. Joel Bunis, pursuant to a divorce decree, split his
20 interest with his former wife Wendi Resnick. Prior to the divorce, Joel Bunis sold
21 2% of his original 4% to Cellular Dreams. In addition, there have been minor
22 changes in the interests of the various partners as a result of capital call
23 adjustments. For example, if a partner failed to make a capital call, the remaining
24 partners that wanted to could make up the contribution. Those making the
25 contributions would increase their respective interest slightly and the defaulting
26 partner's interest would be reduced slightly. This process has resulted in no
27 change of control. In fact, these minor changes have had no impact on any votes.

1 **Q. Please give us a brief description of the partnership and its governance**
2 **structure.**

3 A. Alee is a general partnership consisting of 17 partners, two of which are
4 partnerships. The Executive Committee currently consists of three partners,
5 Becky Jo Clark, Chairperson; Robert Bernstein and Terry H. Jones. The general
6 partnership as a whole makes all major decisions and the Executive Committee
7 executes the direction of the partners and manages the day-to-day affairs.
8 Partners vote based upon their respective partnership interest.

9 **Q. What has Alee done in connection with the license granted for the New**
10 **Mexico RSA 3 cellular market?**

11 A. Alee Cellular Communications became the tentative selectee for New Mexico 3 in
12 December 1988 and received a construction permit in August 1989. Although
13 financing was next to impossible because of the cloud on the license as a result of
14 the Algreg proceeding, Alee successfully negotiated management and switch
15 sharing agreements with Metro Mobile CTS for construction and operation of the
16 system. Pursuant to our agreements with Metro Mobile CTS, it advanced the
17 funds for construction. The construction costs were repaid from operating
18 revenue. The initial cell site in Socorro, New Mexico, was turned on in 1991.
19 The balance of the system consisting of five additional sites was engineered and
20 constructed under the management agreement. The system was completed in
21 1994 and in full operation with 6 analog cell sites located in Belen, Bernardo,
22 Socorro, Truth or Consequences, Caballo, and San Antonio. A copy of the Alee

1 New Mexico 3 authorization, call sign KNKN271, issued in February 1988,
2 showing the six sites, is attached as Attachment A.

3 In order to construct these locations, four sites required negotiations for land
4 leases and the construction of towers. Two of the sites were co-locations with one
5 of those being on U.S. government property. The completion of the New Mexico
6 3 system provided cellular service to all of the Rio Grande Valley and Interstate
7 25 running from Albuquerque to Los Cruces and allowed for uninterrupted
8 service between these two major cities.

9 In 1999, it was apparent that digital conversion was a necessity. Planning and
10 engineering was completed in 2000 followed by the equipment installation and
11 two fill-in cell sites located in Valencia County at Peralta and Los Lunas. In
12 addition, the Belen site was converted to digital. In September 2000, the digital
13 conversion was completed and Alce is now providing digital as well as analog
14 communications throughout Valencia County.

15 Even though the KNKN271 authorization was revoked in the Algreg proceeding,
16 Alce's license showed an expiration date of October 1, 2000, as can be seen on
17 Attachment A. Upon advice of counsel, a renewal application was filed in
18 September 2000, File Number 000216499. That application was granted
19 December 4, 2000 for a ten-year term ending October 2010. The grant was listed
20 on Public Notice, Report Number 721, released December 13, 2000.

21 Alce does not have a local customer base. The system provides service
22 throughout the area covered by its cell sites to system users on a roamer basis.
23 Local service, however, has been provided by our managers with our approval.

1 As of September 2002 according to information from our current manager Alltel,
2 it has approximately 10,000 customers located within the New Mexico 3 RSA.
3 Alec felt it would be unfair to the customer for it to develop a local customer base
4 unless the Algreg revocation proceeding was resolved in its favor. Regretfully, it
5 was not. Likewise, Alec concluded it was not prudent to acquire the local
6 customer base developed by our managers.

7 Alec has provided continuous, uninterrupted service in New Mexico 3 since 1991.
8 The system has been operating pursuant to the original management agreement by
9 Metro Mobile CTS, then Bell Atlantic, and since 2000, by Alltel. The original
10 agreements were assigned with Alec's consent.

11 **Q. What is the current status of the New Mexico 3 operations?**

12 A. Alec is operating the system under a 180-day Special Temporary Authority issued
13 by the FCC in late May 2002.

14 **Q. Has Alec received any citations for any rule violations from the Federal**
15 **Communications Commission in connection with the operation of the New**
16 **Mexico 3 cellular system?**

17 A. No.

18 **Q. Have there been any citations for rule violations from state or local**
19 **authorities in connection with the New Mexico 3 operation?**

20 A. No.

21 **Q. As you are aware, Alec, as found in the Algreg proceeding, made**
22 **misrepresentations and lacked candor in connection with its New Mexico 3**
23 **application resulting in an order of revocation. How did this happen and**

1 **what, if any, procedures or policies has the partnership adopted to ensure**
2 **FCC compliance?**

3 A. The Cellular Corporation ("TCC") was an application preparer and provided
4 applications for RSA sites to individual investors upon request. During the delays
5 for the RSA lotteries, TCC came up with an additional scheme to combine several
6 of the individual applicants into partnerships, which would allow for the
7 partnership to apply for all 428 RSA sites. Alee Cellular Communications was
8 one of these partnerships that was established by The Cellular Corporation.
9 However, the Alee partners did not know each other. In addition, few, if any, of
10 the partners had any background with FCC rules and requirements. This resulted
11 in a great amount of reliance by Alee on TCC, its agent Allan Kane, and its
12 attorney, William Franklin, Esquire. The majority of us were sold a product,
13 which we believed to be an investment, not an item that required active
14 participation. The partners met for the first time in December 1988, after being
15 selected in the lottery as tentative selectee for New Mexico 3. The initial meeting
16 of Alee Cellular Communications took place at the offices of Allan Kane in New
17 Jersey. Allan Kane controlled the meeting, maneuvered himself to become
18 manager of the partnership and engineered the use of William Franklin, Esquire
19 as our FCC attorney.

20 This was a major mistake by the partnership, because the partners were misled,
21 misinformed and manipulated by Allan Kane, William Franklin, Esquire and The
22 Cellular Corporation. In hind sight, it is obvious that all three had their own
23 agenda, which was not in the best interest of the partners.

1 In late 1989, largely a result of the ~~Sharifan/foreign partner matter~~, the partnership
2 became convinced that its interests was not being served. In January 1990, the
3 Executive Committee took control of the partnership, dismissed Allan Kane as
4 manager, terminated the relationship with William Franklin, Esquire, and engaged
5 our own FCC attorneys, Hopkins and Sutter, now Drinker, Biddle and Reath.
6 Alee voluntarily disclosed the Sharifan/foreign partner matter to the FCC in April
7 1990 upon the advice of our new FCC counsel which ultimately led to the Algreg
8 proceeding and the revocation of our New Mexico 3 license.

9 From 1990 forward, the Executive Committee, with the approval of the
10 partnership on all major matters, has managed the partnership. The partners have
11 relied heavily on our FCC attorneys to provide guidance and assistance as it
12 related to any and all FCC matters and the Executive Committee is in continuous
13 communication with our FCC attorneys.

14 **Q. In light of the Algreg findings, why should the Federal Communications**
15 **Commission have confidence in Alee, should the Texas 21 application be**
16 **granted, to deal candidly and truthfully with it in the future?**

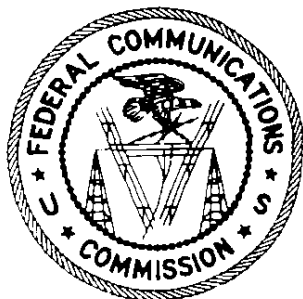
17 A. The Alee Cellular Communications partners have always tried to be candid and
18 truthful. Our initial lack of experience and knowledge of the FCC rules and
19 regulations required us to rely on those with that specific knowledge and
20 experience. From inception until January 1990, Alee relied on the group who put
21 the deal and the partnership together -- The Cellular Corporation, William
22 Franklin, Esquire, and Allan Kane. Unfortunately, our reliance was misplaced.

1 I certainly was not aware of any discrepancies in the partnership information
2 reported in 1989 by the letter amendment signed by Bob Bernstein. While I
3 understand why the FCC in the Algleg decision imputed to the partnership, an
4 intent to deceive, there was no deliberate effort on the partnership's part to
5 deceive the FCC. Nonetheless, Alee, as the FCC applicant/licensee, must accept
6 the responsibility for our misplaced reliance.

7 The current Executive Committee has functioned since 1990. The partners are
8 involved in all major decisions and determine the direction of our partnership, and
9 approve all actions of the Executive Committee. The Executive Committee
10 executes the directions of the partners and manages the day-to-day affairs. Our
11 FCC attorneys report directly to the Executive Committee, and to the partnership
12 when appropriate.

13 Although we still rely heavily on our FCC attorneys and advisors, the knowledge
14 of FCC rules and regulations gained over the last 12 years makes it even clearer
15 that the partners must be actively involved in every aspect of the partnership
16 business. Since taking control in 1990, the partners realize that this is a business,
17 not a passive investment as it was initially portrayed and sold. The partnership
18 and the partners understand that we are responsible for compliance with FCC
19 rules and policies. While we rely on our attorneys for advice, we know that we
20 are ultimately responsible for ensuring truth and candor in our dealings with the
21 FCC. The partners have committed a significant amount of time and money into
22 Alee and have had an expensive lesson from the "School of Hard Knocks".

1 Alee has learned the need for making sure that all information submitted to the
2 FCC is accurate and complete. Alee has operated the New Mexico 3 cellular
3 system for approximately 11 years without any citations from the FCC. The
4 partnership, based upon my experience, is committed to ensuring full and truthful
5 disclosure in its dealings with the FCC. The events of 1988/89 that led to the
6 January 1989 amendment that was the basis for the revocation decision, are
7 isolated in time and circumstances. They will not be repeated. Alee can be
8 trusted to buildout the Texas 21 system and operate it in the public interest should
9 the application be granted.



United States of America
Federal Communications Commission
RADIO STATION AUTHORIZATION
Cellular Radiotelephone Service

ALEE CELLULAR COMMUNICATIONS
602-7 COLLEGE AVENUE
CLEMSON, SC 29631

Call Sign: KNKN271

Market: 0555 Channel Block: A-1 SID: 0079
Market Name: NEW MEXICO 3 - CATRON

The Licensee hereof is authorized, for the period indicated, to operate a radio transmitting station in accordance with the terms and conditions hereinafter described. This authorization is subject to the provisions of the Communications Act of 1934, as amended, subsequent Acts of Congress, international treaties and agreements to which the United States is a signatory, and all pertinent rules and regulations of the Federal Communications Commission, contained in Title 47 of the Code of Federal Regulations.

Initial Grant Date..... January 18, 1991

Expiration Date..... October 01, 2000

WAIVERS / CONDITIONS:

Pursuant to Section 309(h) of the Communications Act 1934, as amended, (47 U.S.C. § 309(h)), this authorization is subject to the following conditions: (1) This authorization does not vest in the licensee any right to operate a station nor any right in the use of the electromagnetic spectrum designated herein beyond the term thereof nor in any other manner than authorized herein. (2) Neither this license nor the right granted thereunder shall be assigned or otherwise transferred in violation of the Communications Act of 1934, as amended (47 U.S.C. § 151, *et. seq.*) (3) This authorization is subject in terms to the right of use or control conferred by Section 706 of the Communications Act of 1934, as amended (47 U.S.C. § 606).

This authorization does not convey to the licensee the right to receive protection from the capture of subscriber traffic, co-channel interference or first-adjacent-channel interference in any area outside of the authorized cellular geographic service area (CGSA) of the system. Moreover, any facility authorized herein with a service area boundary (SAB) extending into the CGSA of any other operating cellular system on the same channel block, regardless of when such other cellular system was authorized, is subject to the following condition: In the event that the licensee of the other cellular system requests that the SAB of the facilities authorized herein be removed from its CGSA, the licensee herein must reduce transmitting power or antenna height (or both) as necessary to remove the SAB from the CGSA, unless written consent from the licensee of the other cellular system, allowing the SAB extension to remain, is obtained.

Issued by IFG on Monday February 23, 1998

FCC Form 463A

- 11 -

CONTROL POINTS:**Number Street Address****City****State Phone Number****STRUCTURES AND ANTENNAS:**

<u>Location</u>	<u>Latitude</u>	<u>Longitude</u>	<u>Tower#</u>	<u>File Number</u>	<u>Markings</u>
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001	34°04'18"N	106°57'44"W		02430-CL-ML-97	none
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Location Description, City, County, State

Atop Socorro Peak, 5 miles W of I-25 and town of , Socorro, SOCORRO, NM

Antenna: A

<u>Azimuth</u> (degrees from true North)	<u>0°</u>	<u>45°</u>	<u>90°</u>	<u>135°</u>	<u>180°</u>	<u>225°</u>	<u>270°</u>	<u>315°</u>
Antenna Height AAT (m)	624.54	775.11	763.52	791.87	591.62	335.58	352.65	393.50
Transmitter ERP (w)	23.55	22.49	21.98	21.98	23.02	22.49	23.02	23.02

<u>Location</u>	<u>Latitude</u>	<u>Longitude</u>	<u>Tower#</u>	<u>File Number</u>	<u>Markings</u>
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002	32°58'10"N	107°13'31"W		02430-CL-ML-97	none
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Location Description, City, County, State

CABALLO PEAK CELL SITE: SW CORNER OF SECTOR 26; TOWNSHIP 15 S: 4 DEGREES W OF N M P M, Cabello Mounta

Antenna: A

<u>Azimuth</u> (degrees from true North)	<u>0°</u>	<u>45°</u>	<u>90°</u>	<u>135°</u>	<u>180°</u>	<u>225°</u>	<u>270°</u>	<u>315°</u>
Antenna Height AAT (m)	578.21	663.24	679.40	639.78	602.89	908.61	909.83	921.41
Transmitter ERP (w)	14.25	13.39	9.39	1.47	0.00	1.49	8.57	11.85

<u>Location</u>	<u>Latitude</u>	<u>Longitude</u>	<u>Tower#</u>	<u>File Number</u>	<u>Markings</u>
-----------------	-----------------	------------------	---------------	--------------------	-----------------

003	34°26'08"N	106°46'24"W		02430-CL-ML-97	none
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Location Description, City, County, State

2 miles East of Highway 304, 1.2 miles N of Highway 60, Bernardo, SOCORRO, NM

Antenna: A

<u>Azimuth</u> (degrees from true North)	<u>0°</u>	<u>45°</u>	<u>90°</u>	<u>135°</u>	<u>180°</u>	<u>225°</u>	<u>270°</u>	<u>315°</u>
Antenna Height AAT (m)	56.69	-9.14	-50.29	-67.97	-25.30	60.05	28.04	21.34
Transmitter ERP (w)	97.72	93.33	91.20	91.20	95.50	93.33	95.50	95.50

STRUCTURES AND ANTENNAS:

<u>Location</u>	<u>Latitude</u>	<u>Longitude</u>	<u>Tower#</u>	<u>File Number</u>	<u>Markings</u>
004	33°19'38"N	107°18'47"W		02430-CL-ML-97	3,11,21,22 & A,H,I

Location Description, City, County, State

1.2 miles W of I-25, .9 miles N of Alamosa Creek, 7 miles SE of PLACITAS, Truth or Consequences, SIERRA, NM

Antenna: A

<u>Azimuth</u> (degrees from true North)	<u>0°</u>	<u>45°</u>	<u>90°</u>	<u>135°</u>	<u>180°</u>	<u>225°</u>	<u>270°</u>	<u>315°</u>
Antenna Height AAT (m)	-9.14	162.76	237.44	215.19	150.88	104.85	29.57	-27.43
Transmitter ERP (w)	97.72	93.33	91.20	91.20	95.50	93.33	95.50	95.50

<u>Location</u>	<u>Latitude</u>	<u>Longitude</u>	<u>Tower#</u>	<u>File Number</u>	<u>Markings</u>
006	34°39'19"N	106°42'14"W		02430-CL-ML-97	NONE

Location Description, City, County, State

BLOCK 4, UNIT 65, LOT 30A PART OF RIO DEL ORO SUBDIVISION , BELEN, VALENCIA, NM

Antenna: A

<u>Azimuth</u> (degrees from true North)	<u>0°</u>	<u>45°</u>	<u>90°</u>	<u>135°</u>	<u>180°</u>	<u>225°</u>	<u>270°</u>	<u>315°</u>
Antenna Height AAT (m)	71.63	17.37	-20.42	12.80	48.46	75.59	35.05	66.45
Transmitter ERP (w)	97.72	93.33	91.20	91.20	95.50	93.33	95.50	95.50

<u>Location</u>	<u>Latitude</u>	<u>Longitude</u>	<u>Tower#</u>	<u>File Number</u>	<u>Markings</u>
007	33°39'57"N	107°04'56"W		02430-CL-ML-97	A,H,I & 3,11,21,22

Location Description, City, County, State

22 MILES SE OF SAN ANTONIO, 300' E OF I-25, 0 .5 MILE N OF MILLIGANS GULCH, SAN ANTONIO, SIERRA, NM

Antenna: A

<u>Azimuth</u> (degrees from true North)	<u>0°</u>	<u>45°</u>	<u>90°</u>	<u>135°</u>	<u>180°</u>	<u>225°</u>	<u>270°</u>	<u>315°</u>
Antenna Height AAT (m)	-0.91	94.18	143.73	164.59	181.66	55.78	-12.50	-15.85
Transmitter ERP (w)	97.72	93.33	91.20	91.20	95.50	93.33	95.50	95.50

WAIVER(S):